



ALBANY CITY COUNCIL AGENDA

Monday, August 10, 2020

This meeting will be conducted virtually. At 4:00 p.m., join the meeting at:

<https://www.gotomeet.me/cityofalbany/ccm>

You can use your built-in microphone or dial in using your phone.

Call: [1-646-749-3129](tel:1-646-749-3129)

Access code: [491-970-829](tel:491-970-829)

Microphones will be muted and webcams will be turned off for presenters and members of the public unless called upon to speak.

Requests for information to be shared on screen must be submitted before noon on the day of the meeting.

If participant(s) disrupt the meeting, the participant(s) microphone and webcam will be turned off.

If disruption continues, the participant(s) will be removed from the meeting.

4:00 p.m. Call to order and roll call

4:05 p.m. Business from the public

*Persons wanting to provide comment to the council during "business from the public" must send their written comments by email to cityclerk@cityofalbany.net **before noon** on the day of the meeting in order to be included in the public record. Please limit comments to one page and include your name and address.*

4:10 p.m. Safe Routes to School grant application – Ron Irish. [Pages 2-4]
Action Requested: Information, discussion, direction.

4:20 p.m. ADU Code amendments – David Martineau. [Pages 5-17]
Action Requested: Information, discussion, direction.

4:40 p.m. Business from the council

4:50 p.m. City manager report

5:00 p.m. Adjournment

Due to Governor Brown’s Executive Orders limiting public gatherings during the COVID-19 pandemic, this meeting is accessible to the public via phone and video connection.





MEMO

TO: Albany City Council

VIA: Peter Troedsson, City Manager *PT 2/16*
 Jeff Blaine, P.E., Public Works Engineering and Community Development Director *JB*

FROM: Staci Belcastro, P.E., City Engineer *SB*
 Ron Irish, Transportation Systems Analyst *RI*

DATE: July 22, 2020, for the August 10, 2020, City Council Work Session

SUBJECT: 2020 Safe Routes to School Grant Applications
 Relates to Strategic Plan theme: Great Neighborhoods

Action Requested:

Staff recommends Council authorize submittal of Safe Routes to School grant applications for a sidewalk project along Geary Street and an extension of the Periwinkle Creek multi-use path along Queen Avenue.

Discussion:

The application period is currently open for the Oregon Department of Transportation’s 2020 Safe Routes to School grant program. The program is intended to fund the construction of bicycle and pedestrian projects that address barriers to students walking and cycling to school. Priority is given to projects that benefit Title 1 schools (those having a high percentage of students qualifying for free/reduced lunch) and that make improvements to high traffic volume roads. Projects must be within a one-mile radius of a qualifying school. Projects meeting Title 1 criteria are eligible for 80 percent grant funding with a 20 percent local match.

Staff has identified two potential applications that have funds available for the required local match and appear to align well with grant program priorities. Both are identified projects in the City’s Transportation System Plan and assigned Transportation System Development Charge (TSDC) funding in the City’s TSDC fee methodology.

Geary Street Sidewalk – Grand Prairie Road to 34th Avenue: This project (see Attachment 1) is within a one-mile radius of three schools and would construct infill sidewalk along both sides of the street, retrofit existing driveways and curb returns to make them Americans with Disabilities Act (ADA) compliant, and install enhanced pedestrian crossings with Rectangular Rapid Flashing Beacons (RRFBs) at 28th Avenue and 31st Avenue. Because the existing right-of-way width is insufficient to allow for sidewalk installation, the project would require some right-of-way acquisition along both sides of the street. Total project cost for both construction and right-of-way acquisition is estimated at \$1,600,000. The required local match would be \$320,000.

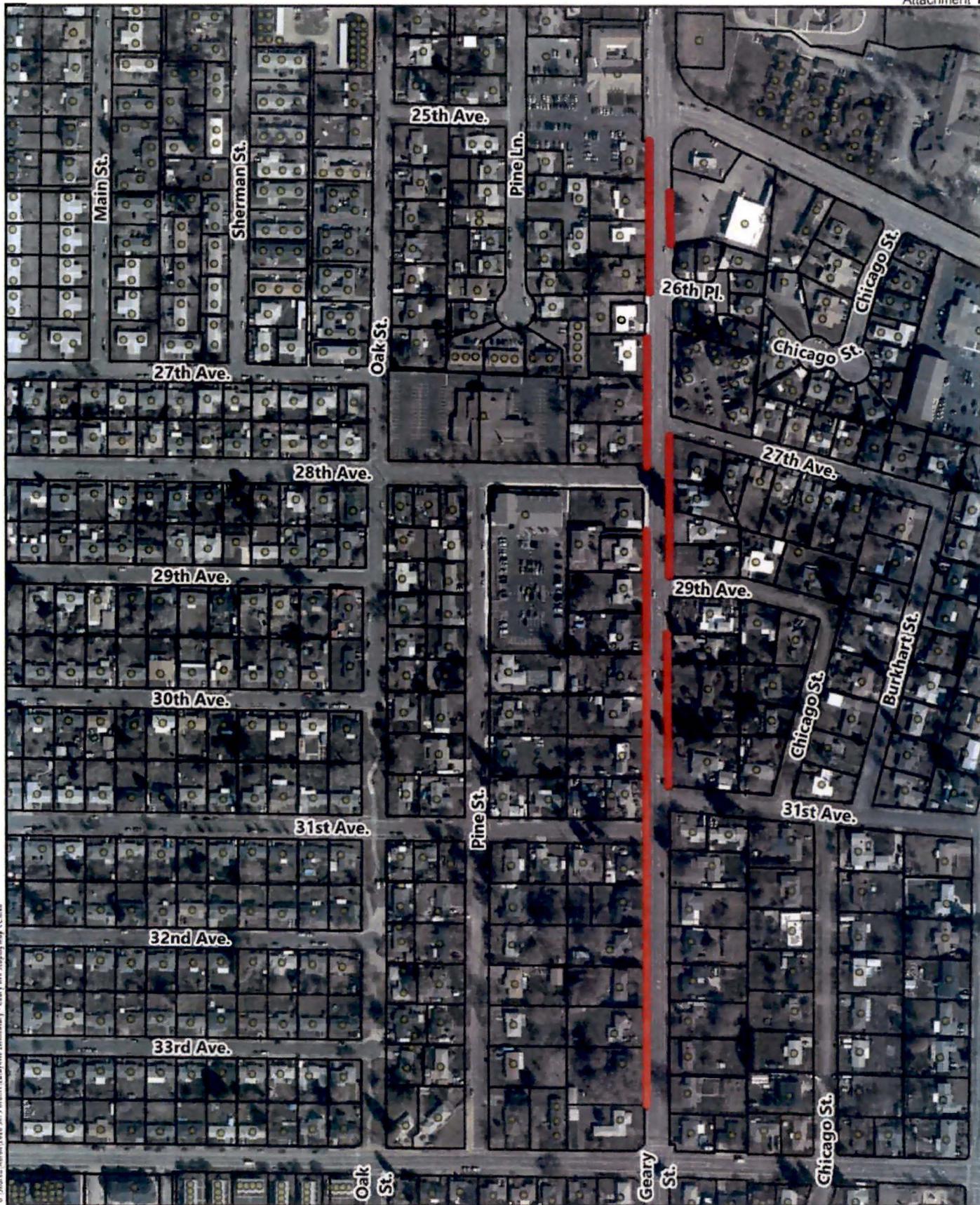
Periwinkle Path Extension – Periwinkle Creek to Geary Street: This project (see Attachment 2) is within a one-mile radius of Sunrise Elementary School and would construct an extension of the Periwinkle Path on the north side of Queen Avenue between Periwinkle Creek and Geary Street by repurposing the space currently occupied by sidewalk and an on-street bike lane. No right-of-way acquisition is expected to be necessary. The project would also add RRFBs to existing pedestrian crossings on Queen Avenue at Main Street and at Thurston Street. Total project cost is estimated at \$296,000 with a required local match of \$59,200.

Budget Impact:

Sufficient funds are available in the TSDC fund for the required 20 percent local match.

RGI:kc
 Attachments 2





© Shared.Aerial 2020 GIS, Grants, Inventory, Boundary - Geary Ave Support Map, CC and

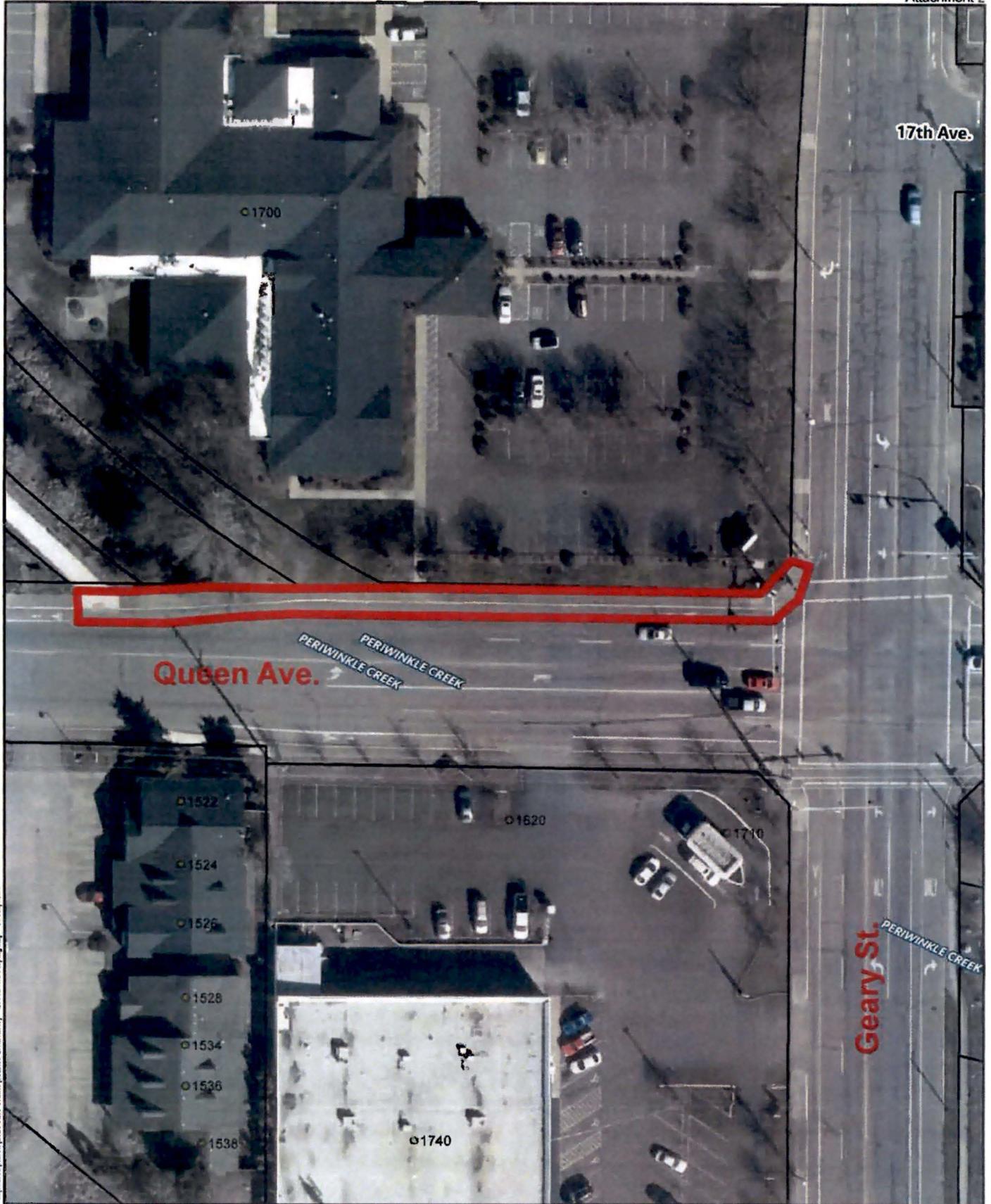


N
 1 in = 300 ft

Date: 7/27/2020 Map Source: City of Albany

Vicinity Map

Lafayette Elementary School/ Geary St



E:\Share\Aurum\2020\815 Grants\Science Elementary - Queen Ave Scoping Map - CC Map.mxd



N
 1 in = 58 ft

Date: 7/27/2020 Map Source: City of Albany

Vicinity Map

Periwinkle Path Extension



MEMO

TO. Albany City Council

VIA Peter Troedsson, City Manager *PT 8/6*
Jeff Blaine, P.E. Public Works Engineering & Community Development Director *JB*

FROM. David Martineau, Planning Manager *DM*

DATE July 30, 2020, for the August 10, 2020, City Council Meeting

SUBJECT: Scope of Accessory Dwelling Unit Code Amendments
Relates to Strategic Plan theme: Effective Government

Action Requested:

Staff recommends that Council provide direction regarding the scope of accessory dwelling unit (ADU) amendments in the Albany Development Code (ADC).

Discussion:

The ADC is not consistent with state law for ADUs. While staff is currently processing applications consistent with state laws, the ADC should be updated to reflect current requirements. If updates are not made, errors in processing applications should be anticipated over time. Additionally, Albany residents who attempt to understand their development options by reading the ADC may be misled by the outdated language. In this way, only those residents who are familiar with state law or have the wherewithal to inquire further with staff may receive any benefits afforded through state law.

Council last considered ADC amendments for ADUs in early 2020 following a letter from 1000 Friends of Oregon. 1000 Friends of Oregon indicated that they intend to petition the Land Conservation and Development Commission for an enforcement order. In March, following the state of emergency declared by the State for COVID-19, 1000 Friends of Oregon indicated they would delay filing their petition until the state of emergency had passed. In their March 26, 2020, letter, 1000 Friends of Oregon said, "It is our hope that we can still arrive at a conclusion to this matter without resorting to an enforcement action by the LCDC."

At the July 22, 2020, council meeting, staff recommended the City take advantage of this delay to bring the ADC into compliance with State law for ADUs. In response, council requested draft ADU amendments be brought back to the August 10, 2020, work session for further discussion.

The last time ADU code amendments were formally considered, the amendment package included only those amendments necessary for minimum compliance. Amendments were proposed in ADC Articles 3, 4, 5, 8, and 22 (see Attachment A). Following public testimony, the Planning Commission recommended raising the maximum ADU size allowed from 750 to 900 square feet. Council debated the size requirement, and, ultimately, none of the proposed ADU code amendments were adopted.

Staff recommends council discuss potential ADU code amendments and, if appropriate, direct staff to initiate the code amendment process.

Budget Impact:

None.

JB:kc
Attachment



Attachment A

ADC Minimum Compliance Amendments to Articles 3, 4, 5, 8 and 22

Note: Amendments shown with additions in **bold/underline** text and deletion in ~~strike through~~. Comment boxes are provided ahead of proposed amendments to describe the changes.

ARTICLE 3 - RESIDENTIAL ZONING DISTRICTS

The table below is amended to clarify that an accessory unit is an accessory dwelling unit.

3.050 Schedule of Permitted Uses. The specific uses listed in the following schedule are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions.

A number appearing opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions follow the schedule of uses, in Section 3.060.

The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without land use review procedures but must meet development standards in this article and may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use permitted conditionally under the provisions of Sections 2.230-2.260 through a Type III procedure.
- CUII Uses permitted conditionally through the Type II procedure.
- PD Use permitted only through planned development approval.
- CD Use permitted only through cluster development approval.
- N No; use not permitted in the zoning district indicated.

Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition number to determine what review process is required based on the details of the use.

[Ord. 5673, 6/27/07]

SCHEDULE OF PERMITTED USES

Uses Allowed in Residential Zoning Districts

Use Categories (See Article 22 for use descriptions.)	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
RESIDENTIAL SINGLE FAMILY: One Unit per Property								
Single-Family, detached	19	Y	Y	Y	Y	Y	Y	N
Single-Family, attached (zero lot line)		N	PD/CD	PD/CD	N	Y	Y	Y
RESIDENTIAL TWO FAMILY: Two Units per Property								
2 attached units (Duplex)	3	N	Y-1, PD/CD-20	Y-1, PD/CD-20	N	Y-1, PDCD-20	Y	Y
2 detached units	2	N	PD/CD	PD/CD	S	PD/CD	Y	Y
Primary Residence with one accessory dwelling unit	4	Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL MULTI-FAMILY: Three or More Units per Property								
3 or More Single-Family Attached Units	3	N	PD/CD	PD/CD	N	S	S	S
3 or More Multi-Family Units	3	N	N	N	N	N	S	S
Manufactured Home Parks (see Article 10)	10	N	N	S	N	S	S	S
RESIDENTIAL: Care or Treatment								
Assisted Living		CU	CU	CU	CU	CU	CU	CU
Child or Adult Care Home	6	Y	Y	Y	Y	Y	Y	Y
Daycare Facility		CU	CU	CU	CU	CU	CU	S

Residential Care or Treatment Facility (6 or more residents)		CU	CU	CU	CU	CU	CU	S
Residential or Group Care Home (5 or fewer residents)		Y	Y	Y	Y	Y	Y	Y
RESIDENTIAL: Miscellaneous								
Accessory Buildings, Garages or Carports	9	Y/S						
Bed & Breakfast	7	CUII	CUII	CUII	CUII	CUII	CUII	S
Home Businesses (See 3.090-3.160 to determine if CU)		Y/CU						
Recreational Vehicle Parks (See Article 10)	5, 10	N	N	N	N	N	CU	CU
Rooming or Boarding Houses		N	N	N	CU	N	S	S
Subdivision Sales Office	19	N	Y	Y	N	Y	Y	Y
Unit(s) Above or Attached to a Business	17	N	N	N	N	N	N	N
Temporary Residence	8	S	S	S	S	S	S	S
INSTITUTIONAL								
Basic Utilities		CU						
Community Services		CU						
Educational Institutions	13	CU						
Hospitals		N	N	N	N	N	CU	CU
Jails & Detention Facilities		N	N	N	N	N	N	N
Parks, Open Areas and Cemeteries	14	S/CU	S/CU	S/CU	CU	S/CU	S/CU	S/CU
Religious Institutions	13	CU						
COMMERCIAL – Limited Use Types								
Entertainment and Recreation:								
Indoor	18	CU						
Outdoor		CU	CU	CU	N	CU	CU	CU
Offices	17	PD/CD						
Restaurants, no drive-thru	17	PD/CD						
Retail Sales and Service	17	PD/CD						
Self-Serve Storage	15	N	N	N	N	N	S	N
OTHER CATEGORIES								
Agriculture: Crop Production		Y	Y	Y	N	Y	Y	Y
On-site Sales of Site-Produced Seasonal Goods		Y	S	CU	N	CU	CU	CU
Plant Nurseries and Greenhouses		S	S	S	N	S	S	S

Use Categories	Spec. Cond.	RR	RS-10	RS-6.5	HM	RS-5	RM	RMA
OTHER CATEGORIES								
Antennas, owned and operated by FCC licensed member of Amateur Radio Service		Y	Y	Y	Y	Y	Y	Y
Communication Facilities	16	N	N	N	N	N	N	N
Kennels	11	S	CU	CU	N	CU	CU	N
Satellite Dish and Other Antennas	12	Y	Y	Y	Y	Y	Y	Y

Y = Yes, allowed, no Site Plan review required

CD = Cluster Development, see Art. 11

CU = Conditional Use approval required, Type III procedure

CUII = Conditional Use approval required, Type II procedure

N = No, not allowed

PD = Planned Unit Development, see Art. 11

S = Site Plan Review required

[Ord. 5281, 3/26/97; Ord. 5555, 2/7/03; Ord. 5673, 6/27/07; Ord. 5742, 7/14/10; Ord. 5801, 2/13/13; Ord. 5832, 4/9/14; Ord. 5886, 1/6/17]

3.060 – 3.070, Open Space district moved to Article 6; Ord. 5764, 12/1/11.

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each detached single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As

proposed, ADC Section 3.080(4) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 3 zones where a single-detached house is permitted. A revised definition of an ADU is provided in Article 22 – Definitions.

3.080 General. Where numbers appear in the column labeled “special conditions” or in a cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

(4) Where detached single-family residences are permitted outright, one accessory dwelling unit (ADU) may be allowed per legally established detached single-family residence, called the “primary residence”. Accessory dwelling units shall be incidental in size to the primary residence. The ADU shall comply with the following standards:

~~(4) One accessory apartment is permitted per primary single-family residence, called the “primary residence.” The accessory apartment may be:~~

~~(a) An addition to or within the primary residence, OR~~

~~(b) In a detached building built before February 1, 1998, OR~~

~~(c) On a lot in a subdivision of at least ten lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

~~(a) One of the residences is owner-occupied.~~

~~(b)(a) The size of an accessory apartment ADU does not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less. (Note: Accessory apartments ADUs greater than 750 square feet that were legally constructed before July 1, 2007, may remain.)~~

~~(c) At least three off-street parking spaces are provided on the property to serve the two residences. [Ord. 5338, 1/28/98]~~

~~(d)(b) All required building permits have been obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~

~~(e)(c) The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located. [Ord. 5338, 1/28/98; Ord. 5673, 6/27/07]~~

~~Detached accessory apartment units ADUs must also meet the following development standards:~~

~~Front Setback: Greater than or equal to the location of the front wall of the primary residence; and~~

~~Interior Setback: 5 feet for one-story; 8 feet for two-story; and~~

~~Maximum Height: 24 feet to the ridge of the roof. [Ord. 5673, 6/27/07]~~

The table below is amended to clarify that an accessory apartment is an accessory dwelling unit.

3.230 Setback Measurements. All setbacks must meet the minimum standards as set forth in Tables 1 and 2 in this Article, as appropriate. Setback distances shall be measured perpendicular to all portions of a

property line. In addition to the setbacks in this article, all development must comply with Section 12.180, Clear Vision Area. See also Table 2, Accessory Structure Standards. [Ord. 5673, 6/27/07]

TABLE 2

ACCESSORY STRUCTURE STANDARDS	
STRUCTURE	STANDARD
All Accessory Structures	Front setback, see Table 1, by zone if not noted below
Detached Structure walls less than or equal to 8 feet tall (2)	Interior setback = 3 feet (1)
Attached Structure	Interior setback = 5 feet (1)
Detached Structure walls greater than 8 feet tall (2)	Interior setback = 5 feet
Accessory Apartment <u>Dwelling Unit</u> Building	Front setback is equal or greater than primary residence Interior setback, one-story = 5 feet (1) Interior setback, two-story = 8 feet (1)
Garage or carport with access to an alley	Alley setback = 20 feet, less the width of the alley right-of-way, but at least 3 feet. Other interior setbacks=see Table 1
Structures, including fences, intended for housing animals	Interior setback = 10 feet
Fences greater than 6 feet tall	See Table 1, by zone; building permit required.
Outdoor swimming pools with depths greater than or equal to 24 inches	Interior setback = 10 feet
Decks less than or equal to 30 inches from grade, with no rails or covers	No setback from property lines
Decks greater than 30 inches from grade	Interior setback = 5 feet

(1) Zero-lot line provisions are in Sections 3.265 and 3.270.

[Ord. 5832, 4/9/14]

(2) The slab or foundation of accessory structures is not included in the wall height unless it is greater than 24-inches from the ground.

[Ord. 5673, 6/27/07]

ARTICLE 4 - COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS

The table below is amended to clarify references related to accessory dwelling units.

4.050 **Schedule of Permitted Uses.** The specific uses listed in the following schedule (Table 4-1) are permitted in the zones as indicated, subject to the general provisions, special conditions, additional restrictions, and exceptions set forth in this Code. A description of each use category is in Article 22, Use Categories and Definitions. The abbreviations used in the schedule have the following meanings:

- Y Yes; use allowed without review procedures but may be subject to special conditions.
- S Use permitted that requires a site plan approval prior to the development or occupancy of the site or building.
- CU Use considered conditionally through the Type III procedure under the provisions of Sections 2.230-2.260.
- CUII Uses considered conditionally through the Type II procedure under the provisions of Sections 2.230-2.260. Ord. 5742, 7/14/10]
- PD Use permitted only through Planned Development approval.
- N No; use not allowed in the zoning district indicated.
- X/X Some zones have two abbreviations for a use category (ex. Y/CU). Refer to the special condition to determine what review process is required based on the details of the use.

A number opposite a use in the “special conditions” column indicates that special provisions apply to the use in all zones. A number in a cell particular to a use and zone(s) indicates that special provisions apply to the use category for that zone(s). The conditions are found following the schedule, in Section 4.060.

[Ord. 5555, 2/7/03]

**TABLE 4-1
SCHEDULE OF PERMITTED USES**

Commercial, Office and Industrial Zoning Districts									
Use Categories (See Article 22 for use category descriptions)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
INDUSTRIAL									
Contractors and Industrial Services		N	N	S-1	N	S-1	S-1	S-1	S
Manufacturing and Production	2	S/CU	N	S/CU,3	N	S/CU	S/CU	S/CU	S
Small-scale Manufacturing	2	S/CU	N	S/CU	S/CU	S/CU	S/CU	S/CU	S/CU
Railroad Yard		N	N	N	N	S	N	S	S
Warehousing and Distribution		N	N	N	N	N	CU	S	S
Waste and Recycling Related	4	N	N	CU	N	N	N	S/CU	S/CU
Wholesale Sales		N	N	N	N	N	S-5	S	N
COMMERCIAL									
Adult Entertainment		N	N	S-6	N	N	N	CU-6	N
Entertainment and Recreation: Indoor Outdoor	7	N N	N N	S-7 S	S-7 S	S N	S/CU-7 N	CUII-7 CU-7, 11 N-7	CU-7 CU
Offices: Traditional Industrial		S S	S N	S S	S N	S N	CUII-8 S-8	N S-9	N S
Parking		N	N	S	S	S	S	S	S
Recreational Vehicle Park		N	N	CU	N	S	N	S	N
Restaurants, no drive-thru w/ drive-thru or mostly delivery	25	CUII N	S CU-10	S S	S S	S N	S CU	N N	N N
Retail Sales and Service		S-11	S-11	S	S	S	S-11	S/CU/N- 11	N
Self-Serve Storage	12	N	N	S	S	N	CU	S	S-13

Taverns, Bars, Breweries, Nightclubs	25	CUII	CUII	S	S	S	CUII	CUII	CUII
Vehicle Repair		N	N	S	S	N	N	S	N
Vehicle Service, Quick-gas/oil/wash		N	N	S	S	N	CU	N-14	N
INSTITUTIONAL									
Basic Utilities		CU	CU	CU	CU	CU	S	S	S
Community Services	15	S/CU	S/CU	S/CU	S/CU	S/CU	CU	CU	N
Daycare Facility		CU	CU	S	N	N	S	CU	N
Educational Institutions	16	N	N	CU	N	CU	S/CU	S/CU	N
Hospitals		CU	N	N	N	N	CU	CU	N
Jails and Detention Facilities		N	N	N	N	N	N	CU	N
Parks, Open Areas and Cemeteries	17	CU	CU	CU	N	CU	CU	CU	N
Religious Institutions	16	CU	CU	S	N	N	CU	CU	N
RESIDENTIAL									
Assisted Living Facility		CU	CU	CU	N	N	N	N	N
Home Businesses (see 3.090-3.180 to determine if CU)		Y/CU							
Residential Care or Treatment Facility		S	S	S	N	N	N	N	N
Single Family and Two Family Units	20	Y/CU-19	S-19	N	N	N	N	N	N
Three or More Units		CU	N	N	N	N	N	N	N
Use Categories (See Article 22 for use category descriptions.)	Spec. Cond.	OP	NC	CC	RC	TD	IP	LI	HI
Units Above or Attached to a Business		S	S	S	CU	S	S	S	N
Residential Accessory Buildings	21	Y/S	Y/S	N	N	N	N	N	N
OTHER CATEGORIES									
Agriculture (on Vacant Land)	22	N	N	N	Y	N	Y	Y	Y
Satellite Dish, Other Antennas, & Communication Facilities <50 ft.	23	Y	Y	Y	Y	Y	Y	Y	Y
Communication Facilities >= 50 ft.	23	N	N	CU	S	CU	CU	S	Y
Kennels	24	N	N	N	CU	N	N	S	N
Non-Res'l Accessory Buildings		S-18	Y	Y	Y	Y	Y	Y	Y
Passenger Terminals		N	N	S	CU	S	CU	CU	N
Rail And Utility Corridors		CU	CU	CU	CU	S	CU	S	S

Y = Yes, allowed, no Site Plan Review required
 CU = Conditional Use review, Type III procedure
 CUII = Conditional Use review, Type II procedure

N = No, not allowed
 S = Site Plan Review required

[Ord. 5555, 2/7/03; Ord. 5728, 1/27/10; Ord. 5742, 7/14/10, Ord. 5767, 12/7/11; Ord. 5832, 4/9/14, Ord. 5886, 1/6/17]

4.060 General. Where numbers appear in the "Special Conditions" column or in a particular cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations that does not include an owner occupancy requirement or additional off-street parking spaces. Proposed revisions to special condition 19 satisfy this ORS requirement by allowing ADUs to be constructed in the Office Professional (OP) and the Neighborhood Commercial (NC) zone, where single-family detached homes are permitted. Since ADC Article 4 does not have standards governing ADUs, proposed revisions require a new ADU to comply with the ADU standards in Article 5 – Mixed Use Zoning Districts. A revised definition of an ADU is provided in Article 22 – Definitions.

(19) Single-Family and Two-Family Units in the OP zone.

(a) In the OP zone, single-family residences are allowed outright. Attached single-family and two-family residences require a conditional use review. One accessory dwelling unit (ADU) may be allowed outright per legally established single-family residence, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070(15).

(b) In the NC zone, single family residences require Site Plan Review. One accessory dwelling unit (ADU) may be allowed outright per legally established single-family residence, called the "primary residence". The ADU shall comply with the standards for ADUs in ADC 5.070(15).

[Ord. 5742, 7/14/10]

(21) Residential Accessory Buildings, except Accessory Dwelling Units, are permitted outright with residential uses if they meet the following conditions:

(a) Detached accessory buildings, garages and carports are less than 750 square feet and have walls equal to or less than 11 feet tall.

(b) All other residential district accessory buildings, garages or carports require a site plan review.

[Ord. 5767, 12/7/11]

ARTICLE 5 -MIXED USE ZONING DISTRICTS

ORS 197.307 requires standards for all housing to be clear and objective. ORS 197.312 requires that at least one ADU be allowed for each single-family dwelling, subject to reasonable siting and design regulations. Reasonable siting and design regulations does not include owner-occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. As proposed, ADC Section 5.070(15) satisfies this ORS requirement by removing the restrictions on detached ADUs, including owner-occupancy and additional off-street parking and allowing ADUs in all Article 5 zones where a single-detached house is permitted, including the MUR zone. A revised definition of an ADU is provided in Article 22 – Definitions.

5.070 General. Where numbers appear in the “Special Conditions” column or in any cell in the Schedule of Permitted Uses, the corresponding numbered conditions below shall apply to the particular use category as additional clarification or restriction:

(15) Existing Single- and Two-Family. Single-family and two-family units built before December 11, 2002, may remain as a permitted use in any zone without being nonconforming. See Section 5.080. [Ord. 5673, 6/27/07]

Accessory Dwelling Units. Where detached single-family residences are permitted, one accessory dwelling unit (ADU) may be allowed outright per legally established detached single-family residence, called the “primary residence”. Accessory dwelling units shall be incidental in size to the primary residence and meet the following standards:

~~Accessory Apartments. One accessory apartment is permitted per single family residence on a property. The single family residence is referred to as the “primary residence” below.~~

~~The accessory apartment may be:~~

- ~~● An addition to or within the primary residence; OR~~
- ~~● In a detached building built before February 1, 1998; OR~~
- ~~● On a lot in a subdivision of at least 10 lots, when the tentative plat was approved after July 1, 2007.~~

~~Accessory apartments shall be incidental in size and appearance to the primary residence and meet the following standards:~~

- ~~(a) One of the residences is owner occupied.~~
- ~~(b)(a) _____ The size of an accessory apartment ADU may not exceed 50 percent of the gross floor area of the primary residence (excluding garages or carports) or 750 square feet, whichever is less.~~
- ~~(c)(b) _____ The size of the property meets the minimum single-family lot area requirements for the zoning district in which the lot is located.~~
- ~~(d)(c) _____ The front door of an accessory apartment ADU may not be located on the same façade as the front door of the primary residence unless the door already exists or the wall that contains the apartment ADU front door is set back at least five feet from the front facade of the primary residence.~~
- ~~(e) At least three off street parking spaces are provided on the property to serve the two residences.~~
- ~~(f)(d) _____ Exterior additions must substantially match the existing materials, colors, and finish of the primary structure.~~
- ~~(g)(c) _____ All required building permits must be obtained. If the primary residence is on the Local Historic Inventory, historic review may be required.~~
- ~~(h)(f) _____ The front setback shall be greater than or equal to the location of the front wall of the primary residence. [Ord. 5673, 6/27/07]~~

(18) Residential Accessory Buildings. Accessory buildings are permitted outright in MUC, MUR, WF, HD, DMU, CB, ES, LE, and MS if they meet the following conditions: [Ord. 5894, 10/14/17]

(a) Detached accessory buildings, garages, and carports are less than 750 square feet and have walls equal to or less than 11 feet tall. [Ord. 5767, 12/7/11]

All other residential accessory buildings, garages or carports require a Site Plan Review in MUC, MUR, HD, DMU, CB, and WF, and are considered through a Conditional Use Type II review in ES, LE, and MS. [This is indicated by the use of a “/” in the matrix. For example, “Y/S” means accessory uses that don’t meet the standards in (a) above require a Site Plan Review.]

[Ord. 5556, 2/21/03; Ord. 5767, 12/7/11; Ord. 5894, 10/14/17]

Accessory buildings on the National Register of Historic Districts require historic review. See Article 7 for the review process and criteria.

Accessory dwelling units: ~~apartments~~ see Special Condition 15. [Ord. 5673, 6/27/07]

ARTICLE 8 - DESIGN STANDARDS

ADC 8.110(3) has been modified, below, to make it clear that Design Standards do not apply to detached accessory dwelling units.

8.110 Applicability.

- (1) The standards of ADC Sections 8.110 through 8.160 apply to all new single-family detached units, manufactured homes, two-family units (duplexes), and single family attached units on individual lots in all zones that allow single-family housing, except as otherwise noted. [Ord. 5894, 10/14/17]
- (2) In addition, except as otherwise noted, the standards of ADC Sections 8.110 through 8.160 apply to multifamily units with individual driveways permitted pursuant to ADC 12.100(2) that are located in the WF, CB, or DMU zone, or in the HD zone in a building where ground-floor residential use is permitted pursuant to ADC 5.070(17). [Ord. 5894, 10/14/17]
- (3) These standards do not apply to detached accessory dwelling units, existing structures, ~~to~~ new additions to existing structures, or to manufactured home parks. [Ord. 5894, 10/14/17]
- (4) Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. [Ord. 5445, 4/12/00; Ord. 5894, 10/14/17]

ARTICLE 22 - USE CATEGORIES AND DEFINITIONS

The relationship between residential accessory buildings and Accessory Dwelling Units is clarified below. As is the definition for Accessory Dwelling Units.

22.320 Residential Accessory Buildings

- (1) A detached building that is subordinate to and consistent with the principal use of the property located on the same property as the principal dwelling. Residential accessory buildings are permitted in residential and mixed-use zones if they meet the following standards:
 - (a) Detached residential accessory buildings (other than Accessory Dwelling Units, which are addressed below), garages, and carports are allowed outright if they are less than 750 square feet and have walls equal to or less than eleven feet in height. Larger buildings may be permitted through site plan review, refer to the following standards:
 - In residential zoning districts in Article 3, refer to Section 3.080(9).
 - In commercial or industrial zones in Article 4, refer to Section 4.060(21).
 - In mixed-use zones in Article 5, refer to Section 5.070(18).
 - (b) Accessory Dwelling Units ~~apartments~~ have special conditions in Articles 3, 4, and 5, Sections 3.080(4), 4.060(19), and 5.070(15) respectfully. [Ord. 5742, 7/14/10]

22.400 Definitions. As used in this Code, the following words and phrases shall have the following meanings:

Accessory Dwelling Unit: A self-contained living unit that is attached to or a part of interior to the primary ~~a single-family dwelling, a detached structure, or in a portion of constructed within a detached accessory structure (e.g. above a garage or workshop)~~ built before February 1, 1998, or constructed in a subdivision platted after July 1, 2007, and that is incidental and subordinate to the principal dwelling unit (primary residence). [Ord. 5338, 1/28/98; Ord. 5801, 2/13/13]